



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XG535**

**Fisheries of the Exclusive Economic Zone off Alaska; Application for an Exempted Fishing Permit**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; receipt of application for exempted fishing permit.

**SUMMARY:** This notice announces the receipt of an application and the public comment period for an exempted fishing permit (EFP) from the Aleut Corporation. If granted, this permit would allow the applicant to test methods to minimize bycatch of Pacific ocean perch (POP) in the Aleutian Islands (AI) pollock fishery. The objective of the EFP is to develop an economically viable AI pollock fishery under current POP abundance levels. Testing will be conducted in the fishery's winter "A" season in 2019 and 2020. This experiment has the potential to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act.

**DATES:** Comments on this EFP application must be submitted to NMFS on or before December 11, 2018. The North Pacific Fishery Management Council (Council) will consider the application at its meeting from December 3, 2018, through December 11, 2018, in Anchorage, AK.

**ADDRESSES:** The Council meeting will be held at the Anchorage Hilton Hotel, 500 W 3<sup>rd</sup> Ave., Anchorage, AK 99501. The agenda for the Council meeting is available at

<http://www.npfmc.org>. In addition to submitting public comments at the Council meeting, you may submit your comments, identified by NOAA-NMFS-2018-0117, by either of the following methods:

- *Federal e-Rulemaking Portal.* Go to [www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2018-0117](http://www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2018-0117), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of the EFP application and the basis for a categorical exclusion under the National Environmental Policy Act are available from the Alaska Region, NMFS website at <http://alaskafisheries.noaa.gov/>.

**FOR FURTHER INFORMATION CONTACT:** Megan Mackey, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the domestic groundfish fisheries in the Bering Sea and Aleutian Islands (BSAI) management area under the Fishery Management Plan for Groundfish of the BSAI Management Area (FMP), which

the Council prepared under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing the BSAI groundfish fisheries appear at 50 CFR parts 600 and 679. The FMP and the implementing regulations at § 600.745(b) and § 679.6 allow the NMFS Regional Administrator to authorize, for limited experimental purposes, fishing that would otherwise be prohibited. Procedures for issuing EFPs are contained in the implementing regulations.

### **Background**

Section 803(a-d) of Pub. L. 108-199 allocated the directed AI pollock fishery's total allowable catch (TAC) to the Aleut Corporation. The allocation was implemented under Amendment 82 to the FMP and became effective in 2005 (70 FR 9856, March 1, 2005). Since 2005, the AI pollock TAC has been set at 19,000 metric tons (mt) annually; however, AI pollock harvest since 2005 has been less than 2,000 mt.

An obstacle to maintaining an economically viable AI pollock fishery has been high levels of POP bycatch due to a resurgence of POP in the AI and a lack of flexibility in the current management system to allow the fishery to adapt to this large increase. Currently the fishery is limited to a 5 percent maximum retainable amount (MRA) limit on POP per landing. POP biomass in the AI has more than tripled between 1981 and 2011, going from 235,000 mt to 845,000 mt, and has remained above 750,000 mt through the last full stock assessment in 2016. During the same period, AI pollock biomass has decreased more than four times from 847,000 mt in 1981 to 191,000 mt in 2011, and has averaged 200,000 mt since 2011.

In the 1990s when the AI POP population was approximately 60 percent of what it is now, the proportion of POP bycatch in the AI pollock fishery was consistently less

than 1 percent of the total catch. In contrast, during a 2006 through 2008 AI cooperative acoustic survey study (AICASS) conducted by NOAA's Alaska Fisheries Science Center, intended to estimate groundfish biomass in order to set acceptable biological catch levels inside Steller sea lion critical habitat, the proportion of POP bycatch in the pollock fishery was highly variable, with a low of 7 percent in 2006 to a high of 21 percent in 2008. The AICASS surveys also showed a high degree of overlap between pollock and POP populations. The limited amount of fishing under the Aleut Corporation's allocation since 2008 has similarly demonstrated the high overlap of pollock and POP observed during the AICASS surveys with bycatch rates often exceeding the 5 percent MRA, thereby constraining the pollock fishery and leading to POP mortality and waste. The 5 percent MRA was also exceeded in 2018.

An additional issue is crew safety. Catcher vessels (CVs) that are allowed to deliver pollock in the AI are small with limited deck space. This fishery is conducted primarily from February through April when weather conditions in the AI are often hazardous with rapidly developing storms and high winds. The only practical means of sorting POP from a large mixed trawl catch in order to comply with the 5 percent MRA is to dump the codend on deck in sections as the remainder of the codend hangs off the stern. Crew then manually sort and discard POP from the catch as the pollock flow into the holding tanks. During this time, vessel maneuverability is substantially hindered, and crew are exposed to the elements and a shifting codend on deck for an extended period. In good weather, the 5 percent MRA may constrict the full utilization of the AI pollock TAC. During the winter, the MRA management measure adds substantial safety risks to the vessel and the crew.

### *Need for Exempted Fishing Permit*

One potential regulatory means to address the burden to harvesting AI pollock while decreasing POP bycatch mortality would be to manage a quantity up to a cap of POP in the pollock fishery. Experience with constraining POP caps in the west coast whiting fishery cooperatives has shown that setting a cap and allowing self-management of the catch rates in a risk pool maximizes incentives to optimize the use of the cap by reducing POP bycatch to harvest as much of the whiting allocation as possible. If the acceptable bycatch rate of AI POP in the AI pollock fishery was 5 percent (the MRA), this would require an additional incidental catch amount of roughly 500 mt from the AI POP TAC of 26,381 mt (2 percent) to support a 2019 “A” season AI pollock directed fishing allowance of 10,361 mt.

However, there are several regulatory obstacles to managing the AI pollock fishery as a mixed target fishery. Legislation mandates that the Aleut Corporation’s pollock allocation be harvested either by vessels designated as BSAI pollock fishing vessels under the American Fisheries Act (AFA) or vessels less than 60 feet (ft) length overall (LOA). There is a targeted POP fishery in the AI; however, AFA vessels are subject to sideboards that prevent them from directed fishing for POP. The POP fishery for the non-Amendment 80 vessels (including CVs less than 60 ft LOA) does not open for directed fishing until April 15 to limit halibut bycatch in the bottom trawl fishery.

Current regulatory constraints limit the ability of the Aleut Corporation to achieve an economically viable AI pollock fishery, and current POP abundance levels put

fishermen at risk when POP rates in excess of the 5 percent MRA are encountered and POP must be sorted and discarded with limited deck space. Fishing under this EFP will provide data about alternative fishing methods for limiting POP bycatch in the AI pollock fishery, which could potentially provide an opportunity for the Aleut Corporation to develop an economically viable AI pollock fishery while improving safety at sea and reducing the overall POP bycatch mortality.

### **Exempted Fishing Permit**

On September 21, 2018, Mr. Dave Fraser and Ms. Kay Larson-Blair of the Aleut Corporation submitted an application for an EFP for 2019 through 2020 to test alternative management frameworks for limiting POP bycatch in the AI pollock fishery. The goals of the proposed 2018 EFP are as follows:

- To the level practicable, fully prosecute the Aleut Corporation's AI pollock allocation as intended by Section 803(ad) of Pub. L. 108-199 while testing methods to minimize POP bycatch.
- To limit POP bycatch mortality and waste in a fully prosecuted AI pollock fishery through full retention and accounting of POP bycatch and limiting of overall POP catch to 500 mt for this fishery by AFA CVs and non-AFA CVs less than 60 ft LOA.
- To improve safety at sea by eliminating the need to sort POP from catch on the deck.
- To evaluate timing and location of POP during the EFP AI pollock fishery to determine means of reducing bycatch rates.

The experiment would be conducted on vessels selected from trawl CVs on the NMFS-approved list of vessels eligible to fish the Aleut Corporation's pollock allocation. It is anticipated that three AFA CVs and two non-AFA CVs less than 60 ft LOA would be selected to operate under the EFP in 2019. Preference would be given to vessels with additional fish location equipment, such as those equipped with a Simrad ES60 or ES70 echosounder with a 38kHz split beam transducer. Both AFA CVs and non-AFA CVs less than 60 ft LOA would carry an observer, as they are currently required to do. Fishing would be conducted with pelagic trawl gear, appropriate to each vessel's horsepower.

No more than 500 mt of POP would be harvested under this EFP by the selected AFA CVs and non-AFA CVs less than 60 ft LOA. The 500-mt POP cap would be allocated between management areas 541 (450 mt) and 542 (50 mt). A maximum of 10,361 mt of pollock would be harvested by the participating vessels under this EFP. Fishing for pollock under this EFP would be required to cease should the pollock or POP limits be attained.

Any salmon bycatch will be counted against the prohibited species catch (PSC) cap for the AI pollock fishery. Any incidental catch of non-pollock species will be counted against the optimum yield for that species. All catch will be retained for weighing and secondary sampling at the processing plant.

#### *Exemptions*

Two exemptions are necessary to conduct this experiment. First, an exemption would be necessary from MRA requirements at § 679.20(e)(ii). The participating AFA CVs and non-AFA CVs less than 60 ft LOA fishing for AI pollock under the Aleut Corporation's permit would be exempted from the 5 percent MRA limit for POP in the

pollock fishery. This exemption would apply from the date the 2019 final harvest specifications are effective until April 15, 2019 and again during the same time period in 2020. Harvest specifications may be found at <https://alaskafisheries.noaa.gov/>.

Second would be an exemption from § 679.21(b)(1)(ii)(B)(4) that applies to halibut PSC bycatch management and PSC limits for rockfish trawl fisheries in the BSAI. POP is a type of rockfish. While this EFP is not targeting POP directly, allowing participating vessels to retain POP above the 5 percent MRA may put them into the range of POP in the directed POP fishery. The directed POP fishery in the AI for vessels less than 60 ft LOA does not open until April 15 to limit halibut bycatch. Because vessels fishing under this EFP would be operating before that April 15 date, those vessels would be exempt from the halibut PSC limit applicable to directed fishing for POP in the BSAI.

#### *Permit Conditions, Review, and Effects*

The applicant would be required to submit to NMFS an interim report of the EFP results by November 30, 2019, and a final report by November 30, 2020. The report would include all data from this experimental fishery, including the catch and position data.

The activities that would be conducted under this EFP are not expected to have a significant impact on the human environment, as detailed in the categorical exclusion prepared for this action (see **ADDRESSES**).

In accordance with § 679.6, NMFS has determined that the application warrants further consideration and has forwarded the application to the Council to initiate consultation. The Council is scheduled to consider the EFP application during its December 2018 meeting, which will be held at the Hilton Hotel, Anchorage, AK. The



EFP application will also be provided to the Council's Scientific and Statistical Committee for review at the December Council meeting. The applicant has been invited to appear in support of the application.

### **Public Comments**

Interested persons may comment on the application at the December 2018 Council meeting during public testimony or until December 11, 2018 when the 15-day comment period ends. Information regarding the meeting is available at the Council's website at <http://www.npfmc.org>. Copies of the application and categorical exclusion are available for review from NMFS (see **ADDRESSES**). Comments also may be submitted directly to NMFS (see **ADDRESSES**) by the end of the comment period (see **DATES**).

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: November 15, 2018.

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Karen H. Abrams,  
Acting Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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